

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

KEVIN STRAUB,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:04-CV-1110 RWS
	)	
CORRECTIONAL MEDICAL	)	
SERVICES, et al.	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER OF DISMISSAL**

This matter is before me on plaintiff's motion to serve defendant Elaine Moore by publication in accordance with Rule 4 of the Federal Rules of Civil Procedure and Rule 54.12(c) of the Missouri Rules of Civil Procedure. While the Federal Rules of Civil Procedure allow plaintiff to serve this defendant in accordance with state law, Missouri law does not permit service by publication in this action. Rule 54.12 applies to in rem or quasi in rem actions, which are actions "affecting a fund, will, trust, estate, specific property, or any interest therein, or any res or status within the jurisdiction of the court." Mo. R. Civ. Pro. 54.12(a). Plaintiff's § 1983 action is not an in rem or quasi in rem action, so his request to serve Moore by publication will be denied.

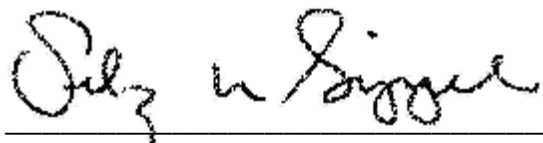
As plaintiff has failed to obtain timely service on Elaine Moore and his time

for doing so has long expired, I will dismiss defendant Elaine Moore from this action without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's motion for service by publication [#60] is denied.

**IT IS FURTHER ORDERED** that plaintiff's complaint against defendant Elaine Moore is dismissed without prejudice for failure to obtain timely service pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

A handwritten signature in dark ink, appearing to read "Rodney W. Sippe", is written over a horizontal line.

RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE

Dated this 22nd day of September, 2005.